

Attorney for Defendants US CAPITAL
GLOBAL PARTNERS, LLC, and ISH SPENCER,

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CMT DEVELOPERS, LLC,

Plaintiff,

-against-

US CAPITAL GLOBAL PARTNERS, LLC,
and ISH SPENCER,

Defendants.

No. 20 Civ. 1853

AMENDED NOTICE OF REMOVAL

Defendants US CAPITAL GLOBAL PARTNERS, LLC (“USCGP”), and ISH SPENCER (“Spencer”), collectively (“Defendants”), petition this Court for removal, pursuant to 28 U.S.C. § 1441, *et seq.*, of the above-captioned action pending in the Supreme Court of the State of New York, County of New York. In support of removal, Defendants allege as follows:

1. Plaintiff CMT Developers, LLC (“Plaintiff” or “CMT Developers”), commenced a civil action, entitled *CMT Developers, LLC, v. US Capital Global Partners, LLC, and Ish Spencer*, Index No. 150940/2020, in the Supreme Court of the State of New York, County of New York.

2. Copies of the Summons and Verified Complaint are attached hereto as Exhibit “A”.

3. Plaintiff served Defendants a copy of the Summons and Verified Complaint at their offices in San Francisco, California, on February 13, 2020.

4. A copy of the affidavit of service of the Summons and Complaint is attached hereto as Exhibit “B”.

5. This Petition is being filed within thirty (30) days after service of the Summons and Verified Complaint on Defendants.

6. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendants pursuant to provisions of 28 U.S.C. § 1441, because it is a civil action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. No prior application for the same or similar relief has been made to this or to any other court.

A. Complete Diversity Exists

8. Complete diversity exists between Plaintiff and each of the Defendants.

9. As set forth in the Verified Complaint, Plaintiff CMT Developers is an entity incorporated in the State of New Jersey. *See* Verified Complaint, ¶ 4.

10. CMT Developers claims in the Verified Complaint that its principal place of business is located in the State of New York. *Id.* However, the Letter of Intent sent by USCGP to CMT Developers was addressed to an office located at 1950 Rutgers University Blvd., Suite 102 Lakewood, New Jersey 08701. *See* Exhibit A to the Verified Complaint.

11. According to documents obtained from the New Jersey, Division of Revenue and Enterprise Services, David Kramer is listed as the manager and only member of CMT Developers LLC. Mr. Kramer is also listed as the Registered Agent for CMT Developers LLC. CMT Developers' registered office is listed as 139 Ocean Avenue, Lakewood N.J., 08701, and its main business address is listed at 139 Ocean Avenue, Lakewood N.J., 08701. *See* Exhibit C attached hereto.

12. Further, upon entering the transactions at issue, it was understood by USCGP that David Kramer owned 100% of the membership interest of CMT Developers LLC.

13. David Kramer resides at 1161 E 21st St Brooklyn NY 11210, and has lived there since 2013.

14. Defendant USCGP is an entity incorporated in the State of Delaware, with its principal place of business located in San Francisco, California. *Id.* at ¶ 5. USCGP is 100% owned by US Capital Holding Corporation, which is also an entity incorporated in the State of Delaware, with its principal place of business located in San Francisco, and is not a citizen of any other state for purposes of 28 U.S.C. § 1332.

15. Defendant Spencer resides and is a citizen of the State of California, and is not a citizen of any other state for purposes of 28 U.S.C. § 1332. *See* Verified Complaint, ¶ 6.

B. The Amount in Controversy Requirement is Satisfied

16. The amount in controversy requirement is satisfied here because the Verified Complaint provides that the amounts in controversy exceeds \$75,000, exclusive of interest and costs.

17. In the Verified Complaint, Plaintiff alleges claims against Defendants for: (1) Fraud in the Inducement; (2) Declaratory Judgment; and (3) Conversion. *See* Verified Complaint, ¶¶ 34-50.

18. Plaintiff's claims are based on a Letter of Intent through which USCGP provided Plaintiff with a proposal to provide a credit facility of up to \$55,000,000. *See* Verified Complaint, ¶ 10.

19. The demand made by USCGP pursuant to a Fee Agreement entered into between USCGP and CMT Developers, which Plaintiff is seeking to void as unenforceable, is approximately \$1,500,000, as stated in the Verified Complaint. *See* Verified Complaint, ¶¶ 31, 43.

20. Accordingly, because the amount in controversy exceeds \$75,000, exclusive of interest and costs, the jurisdictional amount required by 28 U.S.C. § 1332 is satisfied.

21. A true copy of this Notice has been filed in the Supreme Court of the State of New York, County of New York, on March 2, 2020.

WHEREFORE, Defendants respectfully request that the above-captioned action be removed from the Supreme Court of the State of New York, County of New York, to this Court.

Dated: March 5, 2020

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